

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8071 of 2005

Between:

Smt.G.Usharani, W/o.G/Rambabu,
R/o.D.No.5-3-116, Mission Hospital Road,
Near Muthyalamma Temple, Khammam, Khammam District.

..... PETITIONER

AND

Khammam Municipality, rep.by its Commissioner, Khammam, Khammam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order, or direction more in the nature of Mandamus declaring the action of the respondent in issuing the impugned notice in R.O.C.No.T1/453/ROT/96-05, dt.12-2-2005 served upon the petitioner on 08-04-2005 requiring the petitioner to remove the house of the petitioner bearing NO.5-3-116, Mission Hospital Road, Church Compound, Khammam within 7 days as illegal, arbitrary, violative of Art.14, 21 and 300A of the Constitution of India and consequentially to direct the respondent to refrain from taking any steps to seek to demolish the house property of the petitioner bearing No.5-3-116, Mission Hospital Road, Church compound, Khammam without acquiring the same under law.

Counsel for the Petitioner: MR.M.SUDHIR KUMAR

Counsel for the Respondent: MR.P.RADHAKRISHNA

The Court at the stage of admission made the following:

-

-

-

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondent in issuing the impugned notice dated 12-02-2005 served upon the petitioner on 08-04-2005 requiring the petitioner to remove the house of the petitioner bearing No.5-3-116, Mission Hospital Road, Church Compound, Khammam, as arbitrary and illegal.

The petitioner contends that the allegations made in the impugned notice dated 12-02-2005 are incorrect and without any basis. It is also alleged that before issuing the said notice there was no notice to her and therefore the action of the respondent is arbitrary and illegal.

I have heard the learned counsel for the petitioner and the learned standing counsel Mr. Polisetti Radha Krishna appearing for the respondent Municipality.

A perusal of the impugned notice shows that there was no prior notice to the petitioner before arriving at the conclusion that the petitioner has unauthorisedly occupied the land in question and made a construction thereon. In the circumstances, instead of keeping the writ petition pending, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioner to submit an appropriate explanation raising all the objections as available under the law, treating the impugned notice dated

12-02-2005 as a show cause notice. If such an explanation is submitted by the petitioner within a period of one week from today, the same shall be considered and appropriate orders shall be passed by the respondent, in accordance with law. Till such orders are passed and communicated to the petitioner, the respondent shall not take any coercive steps for demolition of the structures in question.

The Writ Petition is accordingly disposed of. No order as to costs.

G. ROHINI, J

Dated: 11-04-2005

LSK

ISTRAR

To

1. The Commissioner, Khammam Municipality, Khammam District.

2. Two C.D. copies.